

Application No. 10/535,294  
Amdt. Dated: April 19, 2007  
Reply to Office Action Dated: February 9, 2007

## REMARKS/ARGUMENTS

### **Status of the Application**

The Examiner is thanked for the Office Action dated February 9, 2007. The status of the application is as follows:

- Claims 1, 3, 5-7, and 9 stand rejected under 35 U.S.C. §102(b) as anticipated by Xia (US 5,489,827). Claims 2, 4 and 8 are deemed allowable. Claims 11-20 have been newly added.

This rejection is discussed below.

### **The Rejection of Claims 1, 3, 5-7, and 9 Under 35 U.S.C. §102(b)**

Claims 1, 3, 5-7, and 9 stand rejected under 35 U.S.C. §102(b) as being anticipated by Xia. Withdrawal of this rejection is respectfully requested, as Xia fails to disclose each and every element as recited in the claims.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

### ***Claims 1, 7, and 9***

Claim 1 requires, *inter alia*, *activity means conceived to detect a kind of activity performed by the at least one person within the area; and lighting control means conceived to control the light source within the area in response to the detected at least one person and the kind of activity performed by the at least one person within the area*. Claims 7 and 9 recite similar aspects.

Xia discloses a system for controlling the intensity of a lamp, wherein the system includes a remote sensing device for detecting the presence of an occupant within an area.<sup>1</sup> The remote sensing device includes a detector, wherein the detector consumes relatively little energy, which allows it to be powered by a battery for an extended period

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<sup>1</sup> Xia, Abstract

of time.<sup>2</sup> The remote sensing device transmits an infrared signal that represents the sensed presence by the detector of an occupant within a room.<sup>3</sup> While the detector continuously monitors a room, the sensing device does not transmit another infrared signal until a predetermined amount of time has passed.<sup>4</sup> This intermittent transmission of infrared signals allows useful battery life of batteries used in the remote sensing device to be extended when compared to a remote sensing device that transmits an infrared signal each time the detector detects presence of an occupant in a room.

Xia, however, fails to disclose *activity means conceived to detect a kind of activity performed by the at least one person within the area* as claimed. To support this rejection, the Examiner broadly cites to Fig. 1 of Xia, and more particularly to a detector (32) illustrated as being within a remote occupancy sensing device (30). The detector of Xia detects the presence of an occupant in an area, but does not detect a *kind of activity* performed by a person within an area as claimed. Xia discloses that the remote occupancy sensing device (which includes the detector) is mounted in a room at a location selected to reliably sense the presence of an occupant therein, even when the occupant is seated or otherwise moving very little.<sup>5</sup> It is submitted, however, that detecting the presence of an individual in an area is substantially different from detecting a kind of activity performed by at least one person within an area as required by this claim.

Additionally, Xia fails to disclose *lighting control means conceived to control the light source within the area in response to the detected at least one person and the kind of activity performed by the at least one person within the area* as recited by claim 1 (and similarly recited in claims 7 and 9). Again, to support this rejection, the Examiner broadly cites to Figure 1 of Xia, and more particularly asserts that a light controller (20) in Figure 1 discloses these claimed aspects. This assertion is respectfully traversed. Xia discloses that the light controller (20) has two modes of operation: a manual mode and an

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<sup>2</sup> Xia, column 4, lines 15-17

<sup>3</sup> Xia, column 4, lines 17-19

<sup>4</sup> Xia, column 4, lines 19-26

<sup>5</sup> Xia, column 3, lines 45-50

occupancy sensing mode of operation.<sup>6</sup> The manual mode of operation allows a user to manually control lamps through use of control keys or a dimming controller.<sup>7</sup> In the occupancy sensing mode of operation, a signal indicating the presence of an individual in a room is received. Lights in the room are then controlled based upon the present level of lighting and a saved level of lighting.<sup>8</sup> The lighting level is reduced or turned off if presence of an individual in the room is not detected after expiration of a predetermined amount of time.<sup>9</sup> Therefore, the light controller of Xia controls lighting in a room based upon the detected presence of a person in a room or lack of presence of a person in the room after a predetermined amount of time. The light controller operates the same way regardless of the activity of a person who is detected as occupying a room. For example, regardless of whether a person was running on a treadmill or lying on a couch reading a book, the light controller disclosed in Xia would operate in an identical manner. Accordingly, Xia fails to disclose *lighting control means conceived to control the light source within the area in response to the detected at least one person and the kind of activity performed by the at least one person within the area* as recited in this claim.

Additionally, as noted above, the Examiner has cited broadly to Figure 1 of Xia and elements illustrated therein without citing to any portion of the specification to support the rejection. Accordingly, Applicant's representative is left in the untenable position of guessing as to the Examiner's rationale in rejecting these claims. To meet the burden of establishing a *prima facie* case of anticipation, the Examiner must explain how the rejected claims are anticipated by pointing out where the specific limitations of the claims are found in the prior art. *Ex Parte Naoya Isoda*, Appeal No. 2005-2289, Application 10/064,508 (Bd. Pat. App. & Inter.2005). The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity. (MPEP §706). Applicant requests specific identification of each

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<sup>6</sup> Xia, column 5, lines 57-59

<sup>7</sup> Xia, column 5, lines 61-63

<sup>8</sup> Xia, Fig. 3B

<sup>9</sup> Xia, Fig. 3B

feature or element and the location in the cited reference where the relevant feature or element is discussed.

***Claim 3***

Claim 3 requires *dating means conceived to determine a date and a time and the lighting control means is conceived to control the light source within the area in response to the determined date and time.*

The Examiner again cites broadly to Figure 1 of Xia as disclosing these claimed aspects, and more specifically cites to function keys (22) on a light controller (20) as disclosing the claimed dating means and requisite functionality thereof and the light controller as disclosing the lighting control means and requisite functionality thereof. Xia discloses setting two timers upon detecting a person in an area. Upon the first timer expiring, the lighting is dimmed.<sup>10</sup> Upon the second timer expiring, the lighting is turned off.<sup>11</sup> There is no disclosure in Xia, however, of *determining a date and a time and the lighting control means is conceived to control the light source within the area in response to the determined date and time.* Rather, Xia teaches that a timer is initiated upon detecting the presence of an individual in a room irrespective of the date and time. Accordingly, withdrawal of the rejection of this claim is requested.

***Claim 6***

Claim 6 recites *preference means conceived to determine a preference of a person and the lighting control means is conceived to control the light source within the area in response to the preference of the at least one person.*

The Examiner again broadly cites to Figure 1, and specifically cites to a remote occupancy sensing device (30a). Applicant's representative is unable to locate any disclosure of determining a preference of a person in Xia, and is thus left in the untenable position of guessing as to the Examiner's rationale in rejecting this claim. If the

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<sup>10</sup> Xia, Fig. 3B, step 121

<sup>11</sup> Xia, Fig. 3B, step 115, Fig. 3A, act 111

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Examiner maintains this rejection, a more specific citation to Xia is respectfully requested.

***Claim 5***

Claim 5 is believed to be allowable at least by virtue of its dependency from claim 1.

***New Claims***

New claims 10-20 are believed to be allowable at least by virtue of their dependencies from their respective base claims.

**CONCLUSION**

In view of the foregoing, it is submitted that claims 1-20 distinguish patentably and non-obviously over the prior art of record. An early indication of allowability is earnestly solicited.

Respectfully submitted,  
DRIGGS, HOGG & FRY CO., L.P.A.



Michael J. Medley Reg. No. 57,058  
Driggs, Hogg & Fry Co., L.P.A.  
38500 Chardon Road  
Willoughby Hills, Ohio 44094  
Phone: 1.440.391.5100  
Fax: 1.440.391.5101

**Please direct all further correspondence to:**

Yan Glickberg, Registration No. 51,742  
Philips Intellectual Property & Standards  
P.O. Box 3001  
Briarcliff Manor, NY 10510  
Phone: (914) 333-9608  
Fax: (914) 332-0615